P 36E

1950. **File No.** S. Belgaum 11/50

K Examined.

Legal **DEPARTMENT**
A **BRANCH**

Subject:— Belgaum Suit-

Civil suit No. 61 of 1949.

Basalingappa Sangappa Nasagi - Plff

V/s:

The State of Bombay - Deft.

For a declaration that the order dated 23rd Sept 1943, passed by the Prant Officer, S.D. Belgaum, directing recovery of Rs. 657-2-0 from the Plff as non-agricultural assessment and fine for unauthorised non-agricultural use of Revision Survey No. 46 of Nandgad as well as the Collectors ~~report~~ order confirming the same are illegal and ~~void~~ ultra vires and for an injunction

First Appeal No. 85 of 1951

S. Belgaum 11/50

S. Bel 11/50

File No.

M/s. Book, Bhp 3m/48

C O N T E N T S.

Legal Department File No. S-Bel. 11/50.

Sr.No.	R.I./O.No.	Subject	Pages.
		Suits Belgaum.	
		C.S.No. 61 of 1949.	
		B.S. Nasargi	
		V/s	
		The State of Bom.	
		For a declaration that the orders are illegal and ultra vires and for an injunction.	
			1-50

Original Suit No. 61 of 194

In the Court of the Civil Judge, S.D.,
at Belgaum.

1. Basalingapp Sangappa Nesargi, age 50
caste Lingayit, occ. Agriculture,
residing at Nandgad, Taluka Khanapur. Plff.

Vs.

1. Province of Bomba. Deft.

Claim Rs. 5/- for Court fee and
Juridiction.

Here-inx the above named Plff states as under:-

1. R.S.No. measuring six Acres and 17 gunthas, assessed at Rs. 7-12-0, situated at Nandagad in Khanapur Taluka, belongs to plff. The saaid land is an Ambrai(Mango grove) containi mango and other fruits trees etc. The trees have been there since a very long time being planted by the ancestors of the plff. The plff has been enjoying the fruits of the said trees on the said land. The land has never beenarable one nor was it ever under cultivation.

2. At Nandagad cattle market is held for about six months in a year, on a bazar day viz. Wednesday, it was so held in a part of the said survvey number beloging to plff.It was - being so held since a very long time. In the last few years the Nandagd village Panchayat has shifted the said cattle - market to the neibouring land belonging to one Mahantswami. Because a cattle market was being held once a week in the - portion of the plff land, it does not mean that the plff - converted it into non-agricultural ~~land~~ use. He cannot compel the owners of the cattle to come and park their cattle in hi land. On the other hand the Nandagad village Panchyat has - shipted the cattle market from the plff's land few years ago. Since then no part of the plff's land is being used as cattl market.

3. The Prant Officer,S.D., by his order dated 27-9-1943 ordered ~~him~~ to levy non-agricultural assessment, and has - further ordered that Rs.658-8-0 should be recovered from the plff as non-agricultural assessment, fine and local fund cess. The said order of the Prant officer is illegaland ultra vires

and the plff is not laible to pay the same. Assuming that non-agricultural assessment is not to be levied, it can be levied only on such portion of the land as was or is being used for non-agricultural use. Plff having failed to to get the orders set aside even from the appellate authorities, is constrained to bring this suit against the Province of Bombay for a declaration that the order of the Prant Officer S.D., Belgaum, dated 27-9-1943, and confirmed by the Appellate Authorities is illegal and ultra vires and not binding on the plff and for a perpetual injunction restraining that d'eft from giving effect to the said order.

4. The servants of the deft have published a proclamation in this month that the said land of the plff would be sold by the public auction at 10 A.M. on 3rd June 1949 with a view to carry out the land order of the Prant Officer, S.D., Belgaum and recovery of the sums from the plff. Hence the suit.

5. The cause of auction first arose on 27-9-43 when P.O. S.D., passed his order. Finally it was confirmed by the Revenue Tribunal in 1947 and lastly in this month when the said pro-clamation was published by the deft's servants.

6. Since the land is situated at Nandagad within the juridiction of his Court, this suit be tried by this Court.

7. This suit is valued for Court fee at Rs. 5/- under section 7 Clause 4 Sub clause (C) of the Court Fees ACt and Court fee paid accordingly. Value for juridiction is the same

8. A notice as required under sec. 80.C.P.Code was given to the deft on 11th March 1948 by registered post and a copy of the sadd notice is kept herewith.

9. The Plaitiff, therefore, prays:-

(1) After declaring that the order dated 27-9-1943 passed by P.O.S.D., Belgaum, and the subsequent orders passed by the Appellate Authorities confiring the said order, are illegal and ultra vires and not binding on the plff, a perpetual injunction restraining the deft from giving effect to the said order may kindly be issued.

3 4

(ii) Any other just and adequate order may kindly be passed in favour of the plff.

(iii) Pending this suit a temporary injunction to the same effect may kindly be issued.

(iv) Costs of this suit may be awarded from the deft.

A decree as prayed for above may kindly be passed against the deft.

Belgaum.
15th April 1949.

Drafted & Presented B
15 -4 -1949.

S/d N.Ramrao.
Pleader.

I, Basalingappa Sangappa Nesargi, the plff hereby declares on S.A. at Belgaum on 15-4-1949 that the above contents in paras 1-9 are true to my own knowledge.

S — 29

Belgaum C.S.No. 61 of 1949.

The plaintiff owns land bearing R.S. No.46 of Nandgad which is assessed to agriculture. The land was being used for holding a cattle market and when this fact came to the notice of revenue authorities in the years 1940-43, the plaintiff was directed by the Prant Officer to pay n.a. assessment and fine. The plaintiff preferred an appeal to the Collr. but did not meet with success. Thereafter he appears to have made an appeal to the B.R.T.(This is not borne out by the record of the case); but that was also dismissed. He has now filed a suit challenging the P.O's Order.

The suit is defensible on the technical ground of limitation as well as on merits. It may be defended. Sanction may be accorded to the defence on the lines of the appended brief which is for approval. A written statement to be filed on behalf of Govt. is also put up.

29 Reg
7/10

AS 'A. A' in para 3 of defence does not appear to be correct. P.P. requested to have sanction of the Govt. in terms of Rule 8-

A to A

RS
19/10

Seen Mr.
Mr Rege

Submitted with reference to A.S.'s note overleaf.

2. Rule 85 may not apply as the land has not been used for building purposes. For instructions in para 3, reliance has been placed on Gupte's R.R.C. pp. 286 and 417-418. This has now been indicated in the brief.

11/10

A.S. The writ may be allowed

R.S.
1.8.1965

R.L.A. air Al write to the Collr enquiring whether the pltff's contention that only a portion of the land was used for the Cattle market is correct and if so, why the non-agricultural assessment was levied on the whole land

R.L. 19/10

office

Belgaum C.S.No.61 of 1949.

Kindly see A.L.R's note dated 19-10-49 at p. 30 ante. As directed therein the Collector was requested to state whether the plaintiff's contention that only a portion of the S.No. was used for n. a. purpose was correct. The Collector has now reported that the whole S.No. was used for non-agricultural purpose and hence the assessment was levied on the whole plot (vide p.37 ante).

2. The brief has been amended in the light of the information supplied by the Collector and put up on the next pages. The brief and the written statement are for approval.

3. Sanction may be accorded to the defence of the suit on the lines of the brief.

29 Recd 11/3

A.S. Rw 11/3 50

ALR RK 11/3

Secy. R.D. 13.3 13.3.50

REVENUE DEPARTMENT
SECRETARIAT, BOMBAY.
13.3 50 BRS
3-w

No. 61
13-3-1950

9. 4+C 49

In the Court of the Civil Judge, Senior Division, Belgaum.

Civil Suit No. 61 of 1949.

Basalingappa Sangappa Nesargi ..... Plaintiff;

Vs.

The ~~Province~~ State of Bombay ..... Defendant.

The Written Statement on behalf of the defendant abovenamed is as follows :-

1. R.S.No. 46 of Nandgad is assessed for the purpose of agriculture. No permission was sought by the plaintiff or his predecessors to use it for any other purpose and it was unauthorisedly converted to non-agricultural use, viz. for the purpose of holding a cattle market. The plaintiff thus rendered himself liable to action under section 66 of the Land Revenue Code, 1879 and the order of the Prant Officer is proper.

2. It is denied that the land has been used for a cattle market since a long time. The plaintiff is put to strict proof of it .

3. Assuming without admitting that the land was so used it was without the knowledge of the defendant and the defendant is not thereby estopped from taking action under section 66 of the Land Revenue Code, 1879.

4. With regard to paragraph 3 of the plaint, it is submitted that the order of the Prant Officer is quite legal. The plaintiff's contention that only a portion of the land was used for non-agricultural purpose is denied. The whole plot was put to non-agricultural use and the non-agricultural assessment was leviable on the whole plot. The plaintiff has been dealt with leniently as the assessment charged is only at a quarter of the prevailing rate and for a period of 10 years.

5. The suit is barred under section 11 of the Bombay Revenue Jurisdiction Act as the plaintiff failed to exhaust all appeals available to him under the law.

6. The suit is also barred under Article 14 of the Indian Limitation Act, 1908. The cause of action arose on 27th September 1943 and the suit has been filed after more than a year from that date.

7. The plaintiff is not entitled to any relief and

his suit should be dismissed with costs.

District Government Pleader,
Belgaum.

I, , District Government Pleader, Belgaum, do hereby declare that what is stated in paragraphs 1 to 7 above is true to the information received and believed to be ~~true~~ true. This verification is made at on the day of 1949.

District Government Pleader,
Belgaum.

Suits :

Belgaum.

For a declaration that the order dated 27th September 1943 passed by the Prant Officer, Southern Division, Belgaum, directing recovery of Rs. 658-2-0 from the plaintiff as non-agricultural assessment and fine for unauthorised non-agricultural use of Revision Survey No. 46 of Nandgad as well as the Collector's order confirming the same are illegal and *ultra vires* and for an injunction.

GOVERNMENT OF BOMBAY.

LEGAL DEPARTMENT.

Resolution No. 4207.

Bombay Castle, 27th March 1950.

Letter from the Collector of Belgaum, No. L.A.W.-733, dated 3rd August 1949—Forwarding

IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION), BELGAUM.

Civil Suit No. 61 of 1949.

Basalingappa Sangappa Nasargi .. .. Plaintiff;

versus

The State of Bombay .. .. .. Defendant.

the papers in the suit noted in the margin; and requesting sanction to its defence.

Endorsement from the Commissioner, Southern Division, Belgaum, No. L.S.T. 412, dated 9th August 1949—Forwarding the above with his concurrence.

Memorandum to the District Government Pleader, Belgaum, No. 3728, dated 17th March 1950—Forwarding a copy of the brief with its accompaniments in advance.

RESOLUTION.—Sanction is accorded to the defence of the suit on the lines of the accompanying brief.

By order of the Governor of Bombay,

P. M. LAD,
Secretary to Government.

G. R., L. D., No. 4207, dated the 27th March 1950.

To

*The Revenue Department,
*The Commissioner, Southern Division,
*The Collector of Belgaum,
The District Government Pleader, Belgaum (with two copies of the brief).

*With a copy of the brief.

No. of 1950.

Copy forwarded for information and guidance to

BELGAUM CIVIL SUIT NO. 61 OF 1949.

Chronological Statement of Facts.

This suit is filed by one Mr. Basalingappa Sangappa Nesargi of Khanapur for a declaration that the order dated 27th September 1943 passed by the Prant Officer, Southern Division, Belgaum, directing recovery of Rs. 658-2-0 from the plaintiff as non-agricultural assessment and fine for unauthorised non-agricultural use of Revision Survey No. 46 of Nandgad as well as the Collector's Order confirming the same are illegal and *ultra vires* and for an injunction.

pp. 1–3, File I.

2. The Plaintiff is an occupant of Revision Survey No. 46 of Nandgad village in Khanapur Taluka. On 10th July 1940 he put in an application to the Collector and District Magistrate stating that the said land was being used as a cattle market from times immemorial and requesting that the Village Panchayat Committee should not be permitted, to shift the cattle market to Survey No. 45 as proposed by it, as that would result in loss to him.

p. 209, File I.

3. In the inquiries that followed it was noticed that the plaintiff had put the land to non-agricultural use without permission and made a profit out of it. On 27th September 1943, the Prant Officer, Southern Division, Belgaum, therefore, passed an order directing the plaintiff to pay a sum of Rs. 658–2–0 being the non-agricultural assessment for ten years and fine for the unauthorised use less the agricultural assessment already paid. The plaintiff then appealed to the Collector; but the appeal was dismissed on 31st January 1944.

p. 225, File I.

4. On 22nd July 1944, the plaintiff gave a notice of suit under section 80 of the Civil Procedure Code, 1879, and again on 11th March 1948 and on 15th April 1949 filed the suit in the Court of the Civil Judge, Senior Division, Belgaum, for the relief stated above.

5. As the plaintiff did not pay the fine and assessment, the Survey number has been put to auction and a proclamation has been issued on 4th April 1949.

Grounds of Defence.

1. *Maintainability of the suit.*—The plaintiff has not exhausted all the remedies provided under section 203 of the Bombay Land Revenue Code, 1879, nor has he preferred an appeal to the Bombay Revenue Tribunal. The suit is therefore, barred under section 11 of the Bombay Revenue Jurisdiction Act, 1876.

2. *Limitation.*—This suit is against the order of the Prant Officer, Southern Division, Belgaum, dated the 27th September 1943. The Prant Officer acting under the Bombay Land Revenue Code, 1879 is an officer of Government acting in his official capacity: see Nagu *v.* Salu 15 Bom. 424. The order of the Prant Officer is being challenged in the suit and the suit is therefore clearly covered by Article 14 of the Indian Limitation Act, 1908. The act of the Prant Officer is not *ultra vires* as it is referable to section 66 of the Land Revenue Code. Article 14 is thus the only article applicable to the case and as the suit is filed more than a year after the date of the order, it is time-barred: *see* Patdaya *v.* Secretary of State, 48 Bom. 61. Further the plaintiff cannot be entitled to the declaration sought without getting the Prant Officer's order

set aside. The case thus clearly falls under Article 14 : *see* Sabhanna *v.* Secretary of State, 31 I. C. 267 and the suit is time barred.

3. *Merits.*—The survey number in question is assessed at Rs. 7-12-0 and the assessment is agricultural. It is an admitted fact that the plaintiff used the land for a non-agricultural purpose viz., for holding a cattle market. The plaintiff is, therefore, liable to pay the altered assessment and he is also liable to fine (*see* sections 48 and 66 of the Land Revenue Code, 1879). The plaintiff's allegation that the land, has been used as a cattle market for a very long time, should be denied. It should be contended that at least at the time of original survey, or revision survey, if any, the land was used for agricultural purposes only and was assessed for that purpose. Further, if there was any non-agricultural use it was not known to the defendant and therefore the defendant is not estopped from taking action under section 66 of the Land Revenue Code, 1879. The plaintiff has also urged that if non-agricultural assessment was to be levied it should have been levied on such portion only as was used for non-agricultural purpose. The plaintiff is impliedly contending that only a portion of the land was used for non-agricultural purpose. This contention is not correct. The whole area of Survey No. 46 of Nandgad was being used for non-agricultural purpose, i.e. for holding the cattle market and therefore the non-agricultural assessment was correctly levied on the whole plot, and the plaintiff can have no grievance on this score. On the contrary it should be urged that the plaintiff has been dealt with very leniently and that the assessment has been calculated at only a quarter of the prescribed rate and the levy is restricted to only ten years.

4. For all these reasons, it should be urged that the suit fails and should be dismissed with costs.

(*Note.*—In paragraph 5 of the plaint it has been stated that the order of the Prant Officer was confirmed by the Bombay Revenue Tribunal. It is not known whether this statement is true. The papers do not contain any reference to Bombay Revenue Tribunal and the Collector's report is silent on the point. The District Government Pleader should ascertain the correct state of affairs and if there was an appeal to Bombay Revenue Tribunal the defence in paragraph 1 need not be taken).

I S S U E S.

1. Whether plff proves that the suit land was not used for any non-agricultural purpose ?

2. If it was used for non-agricultural purpose, does plff prove that a small part of it was used for non-agricultural purpose If so, how much part ?

3. Whether plff is liable to assessment for the part of the land used for non-agricultural purpose or for whole land ?

4. Whether the order passed by the Prant Officer dated 27-9-43 and confrimed in appeal, is ultra-vires and illegal ?

5. Whether the suit is barred by section 11 of Revenue jurisdiction Act ?

6. Whether the suit time barred by article 14 of ~~xxxxxxxxxxxxxxx~~ Limitation Act or any other article ?

7. Whether plff is entitled to the declaration and injunction as sought ?

No more sought.

Belgaum.
26-8-1950.

sd.
Civil Judge, S.Dn, Belgaum

19 65

Received on:- 19-4-1949

Registered on:- 19-4-1949.

Decided on :-

Duration :-

IN THE COURT OF CIVIL JUDGE, SENIOR DIVISION

AT BELGAUM.

Special Suitx No. 61 of 1949

Ex. 23.

Shri, N.Ramarao, Pleader.

1. Basalingappa Sangappa Nesargi age, 50, caste Lingayit, Occ. Agriculturist of Nandgada. ... .. Plff.

Vs.

Shri B.V.Jakati, Govt.Pleader.

1. The Province of Bombay. ... .. Deft.

Claim Rs. 5/- for court fee and jurisdiction.

The plff sues for a declaration that the order dated 27-9-1943 passed by the Prant Officer, S.D. Belgaum and the subsequent order passed by the Collector are illegal and ultra vires ; for a permanent injunction restraining deft from giving effect to the said order and for the costs alleging that S.No. 46 belongs to him, thatx the said land is Umbrai (Mango grove) containing mango and other fruit trees, that at Nandgad a cattle market is hald for about 6 months in a year on Wednsaday, that it was being held since time immemorial on the part of the land, that the Prant Officer, S.D. levied non-agricultural assessment on 27-9-1943 ordered him to pay Rs. 658-8-0, that this order is ultra vires and illegal, that he preferred an appeal to the Collector who dismissed it, that a part of suit S.No. is used for the cattle market, that the order is wrong to the extent of the part used for cattle market, that the cause of action arose on 27-9-1943.

The deft by his W.S. (ex. 23) contends that plff converted the land is suit to non-agricultural use by allowing it to be used for a cattle market, that plff rendered himself liable to axction under S.66 of Land Revenue Code, that the order of the Prant Officer is quite legal and intra vires, that the whole S.No. was used for cattle market and assessment was -

was levied for a period of 10 years, that the suit is barred under S.11 of the Bombay Revenue Jurisdiction Act, that the suit is barred by Article 14 of Limitation Act, that the suit should be dismissed with costs.

The issues for decision are:-

1. Whether plff proves that the suit alnd was used for any non-agricultural purpose ?
2. If it was used for non-agricultural purpose, does plff prove that ~~xxxxxxx~~ a small part of it was used for non-agricultural purpose ? if so how much part ?
3. Whether plff is liable to assessment for the part of the land used for non-agricultural purpose ~~orx~~ for whole land ?
4. Whether the order passed by the Prant Officer dated 27-9-1943 and confirmed in appeal, is ultra vires and illegal ?
5. Whether the suit is barred by S.11 of Revenue Jurisdiction Act ?
6. Whether the suit is time barred by Article 14 of the Limitation Act or any other article ?
7. Whether plff is entitled to the declaration and injunction as sought ?

My findings.

1. No, It was used for non-agricultural purpose.
2. No, on the first part; second part does not survive.
3. Plff is liable for the whole ~~xxx~~ land.
4. No.
5. Yes.
6. Yes.
7. No.

Reasons.

21 67-

Reasons

1. S.No. 46 of Nandgad belongs to plff. It measures 6 Acres 17 Gs. From the Record of Rights extract(Exs. 5 and 40), it appears that Umbrai stands on 3 Acres 8 Gs. and grass grows on 3 Acres 9 Gunthas. The case of plff is that since time immemorial, a cattle market, is being held on the Umbrai portion and that the Prant Officer,S.D. levied non-agricultu -ral assessment on 27-9-1943 on a whole land and ordered him to pay Rs. 658-8-0 for a period of 10 years, vide Ex. 42 and that this order of the Prant Officer is ultra vires and xx illegal. Plff, therefore, seeks declaration that the order of the Prant Officer, which is confirmed by the Collector in appeal is ultra vires and illegal and perpetual injunction restraining deft to give effect to that order as against him.

2. The Deft is Government. The Deft contends that plff used the land for non-agricultural purpose and hence he was liable to non-agricultural assessment under S.48 and 66 of the Bombay Land Revenue Code, that the order of the Prant Officer is intra vires and legal, that the suit is time barred under Article 14 of Limitation Act, that it is barred under S.11 of the Revenue Jurisdiction Act.

3. Issues 1 to 4 :- The record of rights extracts appear at Exs.5 and 40. It is shown in them that 3 Acres 9 Gs. produce grass and 3 Acres 8 Gs. cover the trees. Plff is examined at Ex. 38. He admits during the course of his examination, that the trees spread over the whole survey No. 46. What plff states appears to be quite correct because plff had applied thrice to the Collector and was examined four times by the Mamlatdar. Ex. 41 is the application of plff to the Collector on 9-7-1940. Ex.44 is application of plff to the Collector on 12-5-1930. Ex. 45 is the application of plff to the Collector on 19-9-1941. He was examined by the Mamlatdar four times, vide Exs. 47, dated 4-9-1940, Ex. 48 dated 14-9-1940, Ex. 49 dated 17-1-1942 and Ex. 50 dated 3-11-1942. In all these applications and statements, plff

plff never made out a case that half of the S.No. of suit was not used for cattle market. On the contrary we find, from his application and statements that the whole S.No. was used for cattle market. So having regard to plff's former stand and the present stand, I am of definite opinion that the whole S.No. was used for holding cattle market and not half of it. The entry in the village record appears to be incorrect. The whole S.No., therefore, is liable for non-agricultural assessment provided plff has converted its nature.

4. It is conceded by plff (Ex. 38) that he used to charge ground rent from 2 annas to 7 annas per head after the sale transaction is effected. This fact was admitted by him in his statement Ex. 49 before the Mamlatdar. According to section 48 of the Bombay Land Revenue Code, if a person realises any kind of income other than the agricultural income, from the land, he must be deemed to have converted the land from agricultural use to non-agricultural use. Since time immemorial plff is allowing his land to be used for cattle market and is covering ground rent for such user from the owners of the cattle on each Bazar days for a period of 6 months in a year. It is, therefore, evident that this land has become a source of income to plff other than the agricultural income. The income derived by plff from the owners of the cattle cannot be construed as an agricultural income. It is definitely another kind of income, quite apposed to the landed income. So there is no difficulty in holding that the suit land has been converted into a use of non-agricultural character by plff. That the land had been converted by him into non-agricultural use, has been practically admitted by plff in his statement Ex. 49 made before the Mamlatdar. During the last 7 years, the cattle market on account of the efforts of village panchayat , was shifted to S.No. 45 which led plff to complain to the Collector and Mamlatdar. Plff complained to the

23 69

the Collector and the Mamlatdar that on account of such shifting of the cattle market to S.No. 45, he was put to a great loss and that in case, the cattle market is not sh shifted again S.No. 46 in dispute, there was a danger of c converting the non-agricultural use of the land into - agricultural use. Such stand taken by the plff in Ex. 49 establishes clearly that he has used the land for non-agri cultural purpose. My opinion, therefore, is that the Prant Officer and the Collectorm were justified in levying non- -agricultural assessment upon the suit land. It cannot, therefore, be said that the orders passed by the Prant - Officer and the Collector are ultra vires and illegal. On the contrary my view is that these orders are intra vires and legal. My findingx on issues 1 to 4 are accordingly.

5. Issuex No. 5:- The order of the Prant Officer was passed on 27-9-1943, vide Ex. 42. The appeal was - dismissed by the Collector on 31-1-1944, vide order Ex.43. According to section 11, of the Revenue Jurisdiction Act, plff was bound to prefer an appeal to the Commissioner - under sections 203 and 204 of the Bombay Land Revenue - Code and to exhaust all appeal remedies within one year from the date of the Prant Officer's order, before coming to the Civil Court. It is asserted by plff, Ex. 38 that he had preferred an appeal to the Commissioner within one year from the date of the order of the Prant Officer. - But there is no record to show that plff had preferred - an appeal to the Commissioner wi hin one year from - 27-9-1943. I cannot believe the mere words of plff and come to the conclusion that plff had exhausted his appeal remedies during one year from the date of the Prant - Officer's order. The suit is, therefore, barred under S. 11 of the Revenue Jurisdiction Act. My findings on - the 5th issue is accordingly.

6. Issue No. 6:- The order of the Prant Officer was passed on 27-9-1943. The suit is filed on 19-4-1949.

P.T.O.

Time would begin to run from the date of the Prant Officer's order. As the order of the Prant Officer is intra vires and legal, under Article 14 of the Limitation Act, the suit is clearly time barred, vide Ganesh Vs. Secreatary of State for India, 44 Bom. 451 Chhotubai Vs. The Secretary of State, 22 Bom. L.R. 532 and Bruus Gaard Vs. The Secreatary of State 42 Bombay Law Reporter 532. The two cases cited by plff's learned pleader are not applicable to the present facts, vide Patdaya Vs. The Secreatary of State for India, 48 Bom. 61 and the Secreatary of State Vs. Faredoom, 36 Bom. L.R. 761. My findings on issue No. 6 is accordingly.

7. Issue No. 7 :- Plff is not entitled to injunction and declaration. My findings on the 7th is ue is accordingly."

Order.

The suit is dismissed. Plff to pay the costs of deft and bear his own.

6-2-1951.

sd. N.V.Kanasubhe.
Civil Judge, S.D., Belgaum.

S. Belgaum 11/50

11/50

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No. J.28 of 1951.
Belgaum, 28th Sept. 1951.

To

The ~~Collector~~ of Belgaum, ~~Belgaum~~.

Subject:- Appeal No. 85 of 1951 filed B.S. Mesargi of Nandgad against the decree in Reg.O.S.No. 61 of 1949 on the file of Civil Judge,S.D.Bagaum

Sir,

This is an appeal filed by plff in Reg.O.S.No. 61 of 1949 filed by him against the State of Bombay. The suit was dismissed by the First Class Sub-Judge on 6-2-1951. Now I have the honour to sent herewith the copy of notice served on me and the copy of appeal memo for favour of your perusal. You are, therefore, requested to obtain Government sanction for defence of the appeal i.e Appeal No. 85 of 1951 on the file of District Judge, Belgaum; and instruct me with necessary information at an early date.

19771
E/219

L. D. 28 SEP 1951

Yours faithfully

Dist.Govt.Pleader,Belgaum.

Copy forwarded with compliments to the Collector of Belgaum for information and necessary action.

R. L. A.
Bombay.

Subbs for information
Coll's report may be awaited
28/9

Regular Civil Appeal No. 85 of 1951

In the Court of District Judge, at Belgaum.

1. Basalingappa Sangappa Nesargi, inhabitent of Nandgad, taluka Khanapur. ... ... Appellant (Or. Plff)

Vs.

1. The Province of Bombay. ... . Respondent (Ori. Deft.)

Claim Rs.5/- both for court fee and jurisdiction.

This is an appeal from the decee of the Civil Judge, Junior Division at Belgaum dated 6th February 1951 in Special Civil Suit No. 61 of 1949.

The grounds of objection to the decree appealed from are :-

1. The decree of the lower court is contrary to law and evidence.

2. The lower court erred in holding that the suit land was converted to non-agricultural purposes.

3. The lower court erred in holding that the plff failed to prove that only a small portion was used for non-agricultural purposes.

4. The lower court erred in holding that the plff was liable to pay non-agricultural assessement.

5. The lower court erred in holding that the order of the Prant Officer dated 27-9-1945 and confirmed on appeal - was not ultra vires.

6. The lower court erred in holding that the suit was barred under section 11 of the Revenue Jurisdiction Act.

7. The lower court erred in holding that the suit was barred by time under Art. 14 of the Indian Limitation Act.

8. The lower court has approached the case from an entirely wrong point of view.

9. The lower court has failed to see that the suit land is a mango grove.

10. The fact that the Bamar day cattles were made to - stand under the shade of a tree does not mean that the land was converted to a non-agricultural use.

11. Being a mango grove, the suit land cannot be brought under cultivation.

12. Proper inference have not been drawn and those drawn are erroneous.

For these and other grounds, it is prayed that the appeal may kindly be allowed and the decree of the lower court set aside with costs throughout.

Certified copies of the judgement and the decree appealed from, accompany.

The adress of the Respondent is his registered address.

Dated 8-3-1951.

Belgaum.

Drafted and Prsented

sd. G.P.KUlakarni

Pleader for the Appellant.

Order

Admit . Notice to Respondent.

sd. District Judge, Belgaum.

14-3-1951.

29

Suits
Belgaum
For a declaration that the order dated 27th September 1943 passed by the Prant Officer, Southern Division, Belgaum directing recovery of Rs. 658-2-0 from the plaintiff as non-agricultural assessment and fine for unauthorised non-agricultural use of Revision Survey No.46 of Nandgad as well as the Collector's order confirming the same are illegal and ultra vires and for an injunction.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 1601.

Bombay Castle, 8th October 1951.

Read Government Resolution, Legal Department, No. 4207, dated the 27th March 1950.

Letter from the District Government Pleader, Belgaum, No.J 38 dated the 10th February 1951 forwarding a copy of judgment and stating that the suit noted in the margin was decided by the Civil Judge, Senior Division, Belgaum, on the 6th February 1951, when the following order was passed:-

In the Court of the Civil, Judge(Senior Division), Belgaum.
Civil Suit No. 61 of 1949.

Basalingappa Sangappa Nasargi - Plaintiff
Vs.
The State of Bombay - - - - Defendant

"The suit is dismissed. Plaintiff to pay the costs of defendant and bear his own."

RESOLUTION:- The result of the suit is recorded.

By order of the Governor of Bombay,

original R. T. Katarki

R. T. Katarki,
Deputy Secretary to Government.

To

The Revenue Department,
The Collector of Belgaum,
The District Government Pleader, Belgaum.

Issued 8/10

7C. 6.10.51.

Subject for Sign
ADC
8/10 D. S.

Suits
Belgaum.

For a declaration that the order dated 27th September 1943 passed by the Prant Officer, Southern Division, Belgaum directing recovery of Rs.658-2-0 from the plaintiff as non-agricultural assessment and fine for unauthorised non-agricultural use of Revision Survey No.46 of Nandgad as well as the Collector's order confirming the same are illegal and ultra vires and for an injunction.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 4570
Bombay Castle, 26th March 1952.

Read Government Resolution, Legal Department No.16017 dated the 8th October 1951.

Letter from the Collector of Belgaum No.L.A.W/733 dated 19th January 1952 forwarding copy of letter No. J.252 dated 20th September 1951 from the District Government Pleader, Belgaum and requesting Government's sanction to the defence of the First Appeal No. 85 of 1951 filed by the plaintiff in the suit noted in the margin.

In the Court of the Civil,Judge (Senior Division), Belgaum, Civil Suit No. 61 of 1949.	:	January 1952 forwarding
Basalingappa Sangappa Nasargi -- Plaintiff Vs. The State of Bombay .- - - - Defendant.	:	copy of letter No.

RESOLUTION: Sanction is accorded to the defence of First Appeal No. 85 of 1951 in the Court of the District Judge, Belgaum on the lines of the brief accompanying Government Resolution, Legal Department No.4207 dated 27th March 1950 and the favourable grounds contained in the judgment of the Civil Judge, (Senior Division) Belgaum dated 6th February 1951.

By order of the Governor of Bombay,

Original R.T.Katarki
R.T.Katarki,
Deputy Secretary to Government.

To

The Revenue Department,

The Collector of Belgaum,

The District Government Pleader, Belgaum.

GKV. 26/3.

Submitted for sign
25/3 D.S.(Civil)

Su tale argomento
file in S Belgrano 11/50

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-(District:Belgaum)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

SECOND APPEAL NO. 936 OF 1952.

(1) Basalingappa Sangappa Nesargi of Nandgad, Taluka Khanapur . Appellant. Original Plain

Versus.

(1) The Province of Bombay. X Respondent. (Original Defend

Claim Rs.5/- for both purposes.

The Appellant named above begs to prefer an appeal against the decree of the lower Court Dated 10-4-1952 in Appeal No. 85 of 1951 of the file of the District Court at Belgaum on the following among other grounds:-

(1) The decree of the lower Court is erroneous and contrary to law and weight of the evidence on record

(2) The lower Court erred in holding that that the whole of S. No. 46 of Nandgad was converted to the use of cattle market.

(3) The lower Court having held that a portion of the S.No. was used for mango groves, erred in concluding the whole S.No.2as converted to non-agricultural purpose.

(4) The lower Court has misinterpreted Ex. 49.

(5) The lower Court erred in holding that the Government was right in levying non-agricultural assessment on the whole of the S.No. The lower Court fails to consider that half x the S. No was used for growing grad

(6) The lower Court erred in holding that the suit is barred by limitation.

(7) The lower Court ought to have held that the order of the Prant Officer confirmed on appeal was ultra vires.

(8) The use of a portion of land to allow cattle stand in shade cannot be held to mean that the land was

---

put to non-agricultural use.

(9) Half of the S.No. is used for growing grass as can be seen from the Record of Rights entries.

Grounds added with permission of Court:-

(10) The lower Court ought to have held that the Collector had no jurisdiction to ~~by~~ levy assessment at non-agricultural rate during the period in which the land was used for agricultural use.

(11) Sec. 66 of the land Revenue Code has not been properly applied to the facts of this case.

Bombay Dated 17/29 7/8 : 1952.

Sd/- V.N.Lokur

Advocate for the Appellant.

GSK/-*

37

G. P. Baroda--7-49-1,000
G. R., J. D., No. 4398 dated 3-7-16

[Spl. H. C. A. S. Civil 20 e

IN HIS MAJESTY'S HIGH COURT OF JUDICATURE, APPELLATE SIDE, BOMBAY

APPEAL No. 936 OF 1952 FROM Appellate DECREE

Basalingappa Sangappa Nesargi of Nandgad Tal: Khanapur. } Appellant orig. Plff.

versus

The Province of Bombay. } Respondent orig. Deft.

Claim—Rupees 5/-.

No. 953 OF 1952.

From

THE DEPUTY REGISTRAR
High Court, Appellate Side, Bombay;

To The Secy to Govt of Bombay. Legal Department- Bombay.

Bombay, 24th sept- 1952.

Sir,

The Appellant abovenamed having presented an appeal from the decision of the Dist- Judge of Belgaum in Appeal No. 85- of 1951, and the same having been registered in this Court, and this Court having on 29th August- 1952, ordered notice to issue, I have the honour to inform you that the hearing of the said appeal will take place on the 19th day of November- 1952, or on any subsequent day which to this Court may seem convenient; and that if no appearance is made on your behalf either in person or by a ~~pleader~~ Advocate of this Court or agent duly authorized and instructed, it will be heard and determined in your absence.

Received Copy of Notice

BR

for Govt Pleader.
High Court-, Bombay.

Yours faithfully,

sd/-

Deputy Registrar.

No. 2381

39

Copy applied for on 28-9-54
Copy ready on 1 - MAR 1955
Copy delivered on 2 - 4 - 55

Assistant Superintendent.

20/4

APPEAL No. 936 OF 1952 FROM APPELLATE DECREE.

Basalingappa Sangappa Nesargi (Original Plaintiff) ... ... Appellant;

versus

The Province of Bombay (Original Defendant) ... ... Respondent.

Second Appeal against the decision of C. S. Deodhar, Esquire, District Judge, at Belgaum, in appeal No. 85 of 1951 from the decision of N. V. Ransubhe, Esquire, Civil Judge, Senior Division, at Belgaum, in Special Civil Suit No. 61 of 1949.

Mr. V. N. Lokur, Advocate for the Appellant.

Mr. V. S. Desai, Advocate for the Respondent.

(CORAM :—Gajendragadkar, J.).

15th September 1954.

Oral Judgment.—This is a second appeal by the plaintiff and it raises a short and interesting question of law. The land in suit is Survey No. 46. It measures 6 acres and 17 gunthas and was assessed at Rs. 7-12-0 as land held for agricultural purposes. It came to the notice of the Revenue authorities that the whole of this land was being used for the purpose of holding a cattle market for 6 months on every Wednesday. That is why an enquiry was made and it was found that the land was being used for non-agricultural purposes. On that finding, the Prant Officer passed an order on the 27th of September 1943 directing that the holder should pay non-agricultural assessment on this land at the rate of Rs. 40-8-0 for 10 years past. This came to Rs. 405. The Prant Officer further directed that the holder should pay a fine of Rs. 202-8-0. This order was challenged by the holder by an appeal to the Collector, but the Collector confirmed the order passed by the Prant Officer and dismissed the appeal on the 31st of January 1944. In the present suit, the plaintiff claimed that the order passed by the Prant Officer and confirmed by the Collector was *ultra vires* and he asked for an injunction restraining the Province of Bombay from giving effect to the said order. This suit has failed in both the Courts below. That is how the plaintiff has come to this Court in second appeal.

On behalf of the plaintiff Mr. Lokur has contended that it was erroneous in law to have held that penalty could be imposed in respect of part of the land in any case. Mr. Lokur concedes that the finding recorded by the Courts below that the whole of this area was used for non-agricultural purposes cannot be challenged by him in second appeal. He also concedes that, with regard to a substantial part of this land with the exception of two gunthas, non-agricultural assessment was properly levied and penalty was properly imposed. But his argument is that the order passed by the Revenue authorities in respect of two gunthas of land which was *pot kharab* is illegal and *ultra vires*, and that is the short question of law which has to be considered in the present case.

Mr. Lokur's argument is that the section which authorises the imposition of penalty on a holder for unauthorised use of his holding does not apply to *pot kharab* land at all. In dealing with this argument, it will be necessary to consider some material sections of the Land Revenue Code. Section 45 makes all land liable to pay assessment unless it is specially exempted under the provisions of any special contract with Government or any law for the time being in force. Section 48 deals with the manner of levying assessment and of making alteration in assessment. Sub-section (*1*) of section 48 classifies the land into three groups : lands held for the

purpose of agriculture, lands held for the purpose of building, and lands held for the purposes other than agriculture or building. It is common ground that the land in suit was held for the purpose of agriculture and was assessed on that footing. Sub-section (*2*) of section 48 deals with cases of land which are assessed for any of the purposes mentioned in sub-section (*1*), but are found to be used for some other purpose, and in respect of such lands it is provided that by reason of altered use of the land a different assessment would be liable to be imposed on those lands. It is not disputed that, in regard to the substantial portion of the land in suit which was held for agricultural purposes, Revenue authorities would be entitled to levy assessment on non-agricultural basis and to impose penalty by reason of the fact that the use to which the land is put has not been got altered from that of agriculture to that of non-agriculture. But Mr. Lokur contends that the *pot kharab* land is not subject to the payment of any assessment, and, according to him, the provisions of sections 65 and 66 of the Land Revenue Code would not apply to such *pot kharab* land. Under section 65, an occupant of land assessed or held for the purposes of agriculture is entitled by himself, his servants, agents or tenants to erect farm buildings, construct walls or tanks or to make other improvements thereon for the better cultivation of land or for their more convenient use for the abovesaid purpose. Then the section goes on to provide the procedure which is to be followed by the occupant if he wishes to apply his land to any other purpose and then the section adds that, if the occupant of any holding uses his holding for a purpose other than that for which it has been assessed without obtaining the requisite permission, then he would be liable to be fined for such use in addition to the special assessment. Then follows section 66. This section provides that, if any such land be so used without the permission of the Collector being first obtained, then the occupant and any tenant or other person holding under or through him shall be liable to be summarily evicted by the Collector and he will also be liable to pay the fine. Section 66 refers to "any such land" and these words take us back to section 65. Unless the *pot kharab* portion of the plaintiff's land falls within section 65, it would be difficult to apply the provisions of section 66 to such a land. Mr. Lokur's case is that the *pot kharab* portion of the land cannot be said to be a land which is assessed or held for the purpose of agriculture within the meaning of section 65. I am unable to accept this argument. It is perfectly true that, while levying the agricultural assessment in respect of the plaintiff's land under the provisions of section 48(*1*)(*a*), the Revenue authorities took into account the fact that a part of the land is *pot kharab* and in a sense it may be true that in fixing the amount of assessment on the land as a whole the fact that part of the land is *pot kharab* would be regarded as relevant. But nevertheless, when assessment is levied, it is levied in respect of the whole of the field including the *pot kharab*, so that the field survey No. 46 of which the plaintiff is in possession must as a whole be regarded as land assessed or held for the purpose of agriculture by the plaintiff who is its occupant. If that be the true position, I do not see how even in respect of the *pot kharab* land the plaintiff can escape the imposition of penalty under section 66. Mr. Lokur himself has fairly invited my attention to Rule 75 of the rules framed under the Bombay Land Revenue Code. Under this rule, land which is included as unarable (*pot kharab*) is divided into two categories. The first category covers land which is classed as unfit for agriculture at the time of survey, including the farm buildings or threshing floors of the holder. Sub-rule (2) of Rule 75 provides that, in respect of *pot kharab* lands falling under clause (*a*) of sub-rule (1), even if the occupant brings them under cultivation at any time no additional assessment shall be charged therefor. In other words, it would not be open to the Revenue authorities to charge additional assessment to the occupant of a land on the ground that, whereas a part of the land was shown as *pot kharab* at the time of the assessment, subsequent to the assessment the *pot kharab* has been brought under cultivation. This rule emphasizes the fact that, when assessment is levied on the holding of the occupant, it is levied on the holding as a whole and the fact that in levying the assessment and determining the amount of assessment the Revenue authorities take into account the fact that part of the land in unarable does not alter the position that the assessment so levied is in respect of the whole of the holding and not the holding minus the *pot kharab*. The presence of unarable land merely helps to reduce to some extent the amount of the assessment which is fixed for the land as a whole. But the land as a whole is assessed and the land as a whole must obviously include a part, though it may be *pot kharab*. Therefore, in my opinion, the contention that section 66 does not apply to the two gunthas in the plaintiff's land which is *pot kharab* cannot be sustained.

In support of his argument Mr. Lokur has invited my attention to a decision of this Court in *Rasul Khan Hamad Khan* vs. *Secretary of State* (1915), 17 Bom. L.R. 513. In this case, Heaton and Shah JJ. had to deal with the validity of an order passed by

the District Deputy Collector that the building and the wood kept on a certain piece of land should be removed forthwith and the land should be forfeited. This land was assessed in 1871 and was entered into Revenue registers as waste land. The contention of the occupant was that the order for pulling down the structure and for removing the wood as well as directing the eviction of the occupant was *ultra vires* inasmuch as sections 65 and 66 did not apply to that land. This argument was upheld and the order was held to be *ultra vires*. Mr. Lokur says that the decision in this case should apply to the penalty imposed in respect of the *pot kharab* in the plaintiff's land. I do not think that this argument is well-founded. In the case in which Heaton and Shah JJ. considered the effect of the provisions of sections 65 and 66 of the Land Revenue Code, it was established on the evidence that the plaintiffs who were in lawful occupation of the land for several years were in such occupation as persons entitled to be in charge of the graveyard which existed on the land. The land no doubt was shown in the revenue record as waste land, but the evidence of its user indicated that the land must have been assigned for the purpose of a graveyard under section 38 of the Land Revenue Code. No doubt, no documentary evidence was forthcoming in support of this view and Heaton J. remarked that in their ignorance it would be profitless to conjecture. But in considering the validity of the order made under section 66, the learned Judge had to bear in mind the fact that the land had never been assessed, nor was it shown to have been used for the purpose of agriculture. In fact, it was shown to have been always used for the purpose of a graveyard. The inference, therefore, was irresistible that the land was wholly exempt from assessment. In any event, it is perfectly clear from the observations made by Mr. Justice Heaton that this land had never been assessed and had never been held for the purpose of agriculture. In such a case, it would obviously be inappropriate to apply the provisions of section 65 or section 66. This land could not have been described as held by an occupant for the purpose of agriculture, nor was it assessed for the purpose of agriculture. In fact, that is exactly how Mr. Justice Shah has dealt with this matter when he observed that in the case before him the plaintiffs could not be regarded as occupants of the land within the meaning of the Code and their rights could not be held to be limited to the agricultural use of the land. Therefore, in my opinion, the decision in Rasul Khan's case can be of no assistance to Mr. Lokur in view of the fact that it is not disputed that the whole of survey No. 46 measuring 6 acres and 17 gunthas is a part of the plaintiff's holding and that this land is held by him for the purpose of agriculture.

If the point of law raised by Mr. Lokur fails, then it must follow that the decision of the Courts below is right. The appeal accordingly fails and must be dismissed with costs.

By order of the Court,

(Signed) V. R. GADKARI,
Deputy Registrar.

True Copy
For Deputy Registrar
the 17th day of March 1955

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2381.

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9-12-1954

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In the High Court of Judicature at Bombay.

Wednesday the 15th day of September 1954.

Appeal No. 936 of 1952 from Appellate Decree.

Basalingappa Sangappa Nesargi ... ... Appellant.
(Original Plaintiff).

versus

The Province of Bombay ... ... Respondent.
(Original defendant).

Claim Rs. 5-0-0 for both purposes.

The plaintiff sued for a declaration that the order, dated 27th September 1943 passed by the Prant Officer, Southern Division, Belgaum and the subsequent order passed by the Collector were ultra vires and illegal and for an injunction restraining the defendant for giving effect to the said order and to get costs.

The Original Suit No. 61 of 1949 was decided by the Civil Judge, Senior Division, of Belgaum who dismissed it with costs.

The Appeal No. 85 of 1951 of the District file was decided by the District Judge of Belgaum who confirmed the decree of the court of first instance and dismissed the appeal with costs.

An appeal has been admitted in the High Court from the decision of the lower court. Notice was ordered to issue by the Honourable Mr. Justice Dixit on the 29th day of August 1952.

The grounds of objection to the decision appealed against are :-

1. The decree of the lower court is erroneous and contrary to law and weight of the evidence on record.

2. The lower court erred in holding that that the whole of S. No. 46 of Nandgad was converted to the use of cattle market.

3. The lower court having held that a portion of the S. No was used for mango groves, erred in concluding the whole S. Number was converted to non-agricultural purpose.

4. The lower court has misinterpreted exhibit 49.

5. The lower court erred in holding that the Government was right in levying non-agricultural assessment on the whole of the S. Number. The lower court failed to consider that half the S. Number was used for Growing grass.

6. The lower court erred in holding that the suit is barred by limitation.

7. The lower court ought to have held that the order of the Prant Officer confirmed on appeal was ultra vires.

8. The use of a portion of land to allow cattle stand in shade cannot be held to mean that the land was put to non-agricultural use.

9. Half of the S. Number is used for growing grass as can be seen from the Record of Rights entries.

Grounds added with permission of court :-

10. The lower court ought to have held that the Collector had no jurisdiction to levy assessment at non-agricultural rate during the period in which the land was used for agricultural use.

11. Section 66 of the Land Revenue Code has not been properly applied to the facts of the case.

Coram :- Gajendragadkar, J.

For the reasons stated in the accompanying judgment, the Court confirms the decree passed by the lower appellate Court and dismisses the appeal with costs.

15th Sept. 1954. Sd. V.R. Gadkari.
Deputy Registrar.

45

Bill of Costs in the High Court.

By the appellant.	Rs.As.Ps.
Stamps for Memorandum of appeal.	6-4-0
Stamps for copies of decrees and judgments.	1-14-0
Stamps for Vakalatnama.	2-8-0
Bhatta for process.	0-10-0
Sectioner's fee.	7-1-0
Advocate's fee.	45-0-0
Surcharge.	11-4-0
Printing charges.	15-0-0
Total	89-9-0

By the respondent.	Rs.As.Ps.
Stamps for Vakalatnama (G.P.)	0-0-0
Advocate's fee.	45-0-0
Surcharge.	11-4-0
Total	56-4-0

(Seal) Sd. V.R. Gadkari.

Deputy Registrar.

The 15th day of September 1954.

True Copy

for Deputy Registrar.

The 9th day of December 1954.

~~Finance~~ 47

Suits

Belgaum.

For a declaration that the order dated 27th September 1943 passed by the Prant Officer, Southern Division, Belgaum directing recovery of Rs.658-2-0 from the plaintiff as non-agricultural assessment and fine for unauthorised non-agricultural use of Revision Survey No.46 of Nandgad as Well as the Collector's order confirming the same are illegal and ultra vires and for an injunction.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 1099/E
Bombay Castle, 14th May 1955.

Read Government Resolution, Legal Department No.4570 dated 26th March 1952.

Endorsement from the District Government Pleader,

In the Court of the Civil Judge (Senior Division), Belgaum.	Belgaum
Civil Suit No.61 of 1949.	No.J.257
Basalingappa Sangappa Nasargi ... Plaintiff vs. The State of Bombay ...Defendant.	dated 17-4-1952

stating that the C.A. No.85 of 1951 filed by the plaintiff in the suit noted in the margin was decided on 10-4-1952 when the following order was passed.

"The appeal is dismissed. The Lower Court's decree is confirmed. The appellant to pay the costs of the Respondent and bear his own."

Endorsement from the Government Pleader, High Court, Bombay No.7534 dated 13-10-52 requesting Government's sanction to the defence of the Second Appeal No.936 of 1952 filed by the plaintiff in the suit noted in the margin.

Letter from the Government Pleader, High Court, Bombay No.8026 dated 24-9-54 stating that the S.A.No.936 of 1952 filed by the Plaintiffs in the suit noted in the margin was decided on 15-9-54 when the following order was passed.

"Appeal dismissed with costs"

49

Endorsement from the Government Pleader, High Court, Bombay No.3880 dated the 29th April 1955 forwarding certified copies of the Judgment and Decree.

RESOLUTION: (1) Sanction is accorded to the defence of Second Appeal No.936/52 in the High Court of Judicature at Bombay on the lines of the brief accompanying Government Resolution, Legal Department No.4207 dated the 27-3-1950 and the favourable grounds contained in the judgment of the District Judge Belgaum dated the 10th April 1952

(2) The result of the appeal is recorded.

By order and in the name of the Governor of Bombay,

13/5

D.P. Shikhare,
Deputy Secretary to Government.

To

The Revenue Department,
The Collector of Belgaum,
The Government Pleader, High Court, Bombay,
The District Government Pleader, Belgaum.

K[illegible]. 10/5.

13/5

13/5

8.S (civil)

5

Sukkot after ...

Tikun S. Belgaum 11/50

16/5

J.S. 11/11/4